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SUBJECT: EXBS: UPDATED EXPORT CONTROL SYSTEM STANDARDS
FOR SLOVAKIA

REF: STATE 27927

1. SUMMARY: This cable updates information for Slovakia's Export Control System Standards, effective February 28, 2005.

2. Begin "Export Control System Standards - Slovakia - February 2005".

I. Adequate commitment, legal and regulatory framework, and governmental structure to regulate transfers of weapons and weapons-related technology, and to sufficiently deter violations and punish violators

I.A. Political Commitment

1. Is there a national commitment to export control development?

Yes.

2. Do policies currently exist to cooperate internationally on harmonization of export control policies?

Yes, in adherence to EU policies, laws and regulations.

3. Is the subject country willing to work within the international community to address common threats?

Yes.

4. Are there agencies currently involved in developing control policies?

Yes.

a. What are they?

Ministry of Economy, Ministry of Foreign Affairs, Ministry of Interior, Ministry of Defense, Customs Directorate and the Nuclear Supervision officials.

5. Are there key host-government contacts in the national commitment area?

Yes.

a. Who are they?

-- Mr. Franticek Babuska, Director, Sensitive Goods and Trade Management Department - Export Control Office, Ministry of Economy (02/05)

-- Mr. Miroslav Majernik, Director - Department of License and Customs Policy, Ministry of Economy (02/05)

-- Mr. Mikulas Turner, Head International Department - Nuclear Regulatory Authority of the Slovak Republic (02/05)

-- Mr. Vojtech Decky, Director - Division for Drugs and Other Dangerous Materials, Customs Directorate (02/05)

-- Mr. Vladamir Stasko, Director - Director General's Office, Customs Directorate (02/05)

-- Mr. Jaroslav Spisiak, 1st Vice President, Police Presidium, Ministry of Interior (02/05)

-- Mr. Karol Mistrik, Director - Dept of Disarmament and Council of Europe, Ministry of Foreign Affairs (02/05)

-- Mr. Henrik Markus, Dept of Disarmament and Council of Europe, Ministry of Foreign Affairs (02/05)

-- Mr. Jaroslav Horvath, Director - Department of European Integration and Foreign Relations, Ministry of Interior (02/05)

I.B. Legal Basis and Framework

1. Is there a specific legal basis on which to build or enhance an export control system? Does it consist of laws passed by the legislature? Or constitutional provisions? Or is it based (exclusively or primarily) on executive authority (i.e., authority of the president or equivalent official)?

Yes. Both Slovak national laws and regulations, many of which have been updated recently, and EU laws and regulations.

12. Does the legal basis authorize control of the export, re-export and transit of all items on the multilateral regime lists (see C below)?

Legal basis authorizes controls for import and export as well as re-export. Control for in-transit is in Customs code. Customs is now obliged to check transit of military material and can stop/return/seize shipments not in accordance with international commitments.

13. Does the legal basis authorize control of the export, re-export and transit of items for unilateral foreign policy reasons, such as human rights and regional stability?

Yes.

14. Does the legal basis authorize imposition of catch-all controls (i.e., controls based on the proposed end-use or end-user rather than just the nature of the item)?

Yes.

15. Does the legal basis authorize imposition of controls on activities, such as brokering, finance, and other services?

Yes. Brokering is inferred under the terminology "mediator" and outlines the duties of brokers in import and export.

16. Is there authority to control transfers of technical data and technical assistance, including intangible transfers?

Yes.

17. Are there legal authorities to impose criminal penalties on individuals and legal persons for violations of export control requirements?

Yes.

a. What are the criminal penalties?

Imprisonment for up to 8 years.

18. Are there legal authorities to impose civil or administrative penalties for violations?

Yes.

a. What are the civil or administrative penalties?

Monetary fines up to 10 million SKK (or 3 times the value of the goods if the value is over 10 million SKK) and/or forfeiture of all controlled items.

19. Are there sufficient executive orders, interagency agreements, and the like to implement the export control system?

Yes.

a. What do such orders cover?

EC Regulation 1334/2000 covers the export, import, re-export, and mediation of all dual-use goods and technology. Slovak Act 179/1998 covers the export, import, re-export, and brokering of military goods and WMD. The Act was amended in 2002 to raise the minimum property a company must own to be authorized to export (i.e., so fewer companies can export munitions items), to increase Customs authority to confiscate in-transit items that are not in compliance with international commitments, and to increase GOS controls on brokers/intermediaries. There are also Customs and penal codes. The Customs code was amended to require licenses for refurbishment.

10. Have decrees, regulations or other normative acts been promulgated to implement the legal authority?

Yes.

11. Do they fully implement the authorities provided for?

Yes.

a. If not, which of the authorities in the items above is not being implemented?

N/A

12. Are there legal safeguards against the improper use or disclosure of information obtained in the export control process?

Yes.

13. Are there legal features that routinely interfere with the implementation of effective export controls (e.g., rigid privacy or property rights, lack of search and seizure authority)? Describe them.

Yes. Slovak law requires that all intelligence data be stored on a government certified system. Only one system has been certified and agencies can't send and/or share information.

I.C. Membership or adherence (in terms of policy) to Nonproliferation regimes and international nonproliferation norms

1. Wassenaar Arrangement?

Yes.

2. Nuclear Suppliers' Group?

Yes.

3. Missile Technology Control Regime?

No.

14. Australia Group?

Yes.

15. Are there laws/regs/guidelines concerning adherence to international nonproliferation norms, such as NPT, CWC, BWC, and UN embargoes?

Yes. Also ratified Chemical Weapons Convention, and are active in Biological Weapons Convention.

II. Process for controlling items and evaluating transfer requests

II.A. Control Lists

1. Are there legal authorities to establish and modify control lists?

Yes.

2. Are the control lists made available to the public?

Yes.

3. Are there agencies/personnel in place who are responsible for maintaining and regularly updating control lists?

Yes.

4. Do the control lists conform with multilateral nonproliferation regime/arrangement control lists?

Yes.

a. Wassenaar Arrangement?

Yes.

b. Nuclear Suppliers' Group?

Yes.

c. MTCR?

Yes. Control lists conform even though Slovakia is not a signatory to this regime.

d. Australia Group?

Yes.

5. Are the regulations for catch-all controls public?

Yes.

a. Are catch-all controls used effectively?

Catch-all controls are relatively new.

b. Is there sufficient industry outreach to explain catch-all provisions for all types of export control regulations?

Industry outreach could probably be enhanced, but routine meetings are held by Ministry of Economy concerning the law and changes.

II.B. Authorization Requirements

1. Is registration of munitions exporters, manufacturers and brokers required?

Yes.

2. Is there a requirement for registrants to disclose foreign ownership/control?

Yes.

3. Are the regulations/licensing requirements public?

Yes.

4. Do the license applications require information sufficient for an informed review and decision?

Yes.

a. Quantity and description of items?

Yes.

b. Intended end-use?

Yes.

c. Valid needs of the end-user?

Yes.

d. Identification of all parties to the transaction, their address and destination to include intermediate consignees?

Yes.

5. Are licenses/authorizations required for exports? Which exports (e.g., "munitions and dual-use items on the multilateral control lists")?

Yes - both.

6. Are licenses/authorizations required for imports? Which imports?

Yes - all.

7. Are licenses/authorizations required for transshipment (involves off-loading of cargo)?

Not under existing law, transshipments are under control of Customs only.

8. Are licenses/authorizations required for transit (no off-loading of cargo)?

There is different approach depending on if goods are considered military material or dual-use:

1/ Military material

According to paragraph 22 of act No. 179/1998 -

Act on military material trading:

Transit up to 7 days - no license required.

Transit above 7 days - an entrepreneur has to

request MoE to issue permission for transit.

According to paragraph 47 of act No. 190/2003 -

Act on weapons and munitions

MoI issues permission for transit of weapons and munitions.

2/ Dual-use goods

According to Council Regulation (EC) No 1334/2000 setting up a Community Regime for the control of exports of dual-use items and technology, transit license is not required. According to section 21 of the Regulation, the license is required only for transit of some dual-use items, which are transited with the EU. These dual-use items are listed in the amendment No. IV. of the Regulation.

a. What authorization is required for transit? For transshipment?

Customs must approve.

19. Are licenses required for re-export (controlled item leaves country)?

Yes.

10. Are licenses required for re-transfer (change of end-use or end-user within country)?

Yes.

11. Is there authority to require end-user certificates as conditions of license approval?

Yes.

12. Are the requirements for end-user certificates imposed regularly and effectively?

Yes.

13. Is there legal authority for passing information regarding bad actors, known violators, etc. to other cooperative governments?

Yes, but computer security issue severely limits exchange.

II.C. Screening

1. Are license applications screened to identify suspected bad actors?

Yes.

2. Is there a database drawing on inter-ministerial sources of persons/entities who are debarred or suspected of illicit activity (i.e. watch list)?

Yes, there is a watch list. In addition, we have provided Slovakia and other Central European countries with the Tracker System and Risk Report/Wisconsin Project database.

3. Are there end-use/end-user verification procedures in place?

Yes.

4. Are end-use/end-user verification checks conducted routinely and frequently?

Yes - as needed.

5. Are there pre-license checks?

Yes.

6. Are there post-shipment verifications?

Yes.

7. Is there international cooperation in identifying and preventing transfers of proliferation concern?

Yes.

II.D. Decision-making

1. Does the country have responsible transfer policies?

Yes.

2. Are there decision-making criteria for approving transfers?

Yes.

3. Are these criteria reflected in written guidelines, standards and procedures?

Yes.

4. Are there policies with respect to specific countries, country groups, and areas of conflict?

Yes. EU and UN policies are utilized.

5. Are these guidelines comparable to policy/practice under U.S. Conventional Arms Transfer policy and dual-use export policy?

Yes.

6. Are there adequate referral mechanisms, including case-tracking and the forwarding of cases to other agencies for review before disposition?

Yes. The GOS uses the Tracker system. In addition, there is a working group that includes intelligence representative. This working group, with all relevant agencies, makes recommendation to the committee, which meets once a month.

7. Are policy and national security concerns given sufficient weight in decision making (e.g., compared to economic factors)?

Yes. Foreign Affairs has what amounts to veto power in the committee.

8. Are the licensing process and verification procedures being enforced?

Yes.

9. Do agencies involved in license processing have the ability to deny license applications and to escalate decisions to national-level authorities?

License approval is based on the consensus of all agencies involved in the application review/approval process. Dissenters can escalate decisions to the national-level authorities. MOE

- and MFA have ability to deny license applications.
10. Are there clear authorities to deny a license, specifically for foreign policy and national security reasons?
- Yes.
11. Are there regulations providing for suspension and revocation of export licenses/authorizations?
- Yes.
12. Do licensing officials have access to the (intelligence) information necessary to make informed decisions during license processing?
- Yes. Intelligence representative is a member of the working group that reviews every application.

II.E. Training

1. Are licensing officials adequately trained, including technical expertise, to review license/authorization requests?
- Basically, yes. However, further training would reinforce best practices.

III. An enforcement mechanism that provides authority for trained enforcement officers to investigate and prevent illegal export

III.A. Effective enforcement

1. Are there law enforcement officials with clear lines of authority responsible for conducting investigations, making arrests, and prosecuting cases under the export control laws and regulations?
- Yes. Only police investigative reports can be used in prosecution. Customs has authority to investigate but their investigative reports can not be used in prosecution.
2. Are there legal authorities to enforce trade in controlled items at all borders (land, sea, air) for outbound, inbound, and in-transit cargo?
- Yes. Customs and the Border Police have authority.
3. Do export control enforcement officials possess authority to search, detain and seize products? With a warrant? Without a warrant?
- Yes. Without a warrant.
4. Are there limitations imposed on export enforcement officials that hinder the effectiveness of their work? What are they?
- Computer Security certification requirement severely limits sending and sharing intelligence data.
5. Are inspectors adequately trained to identify controlled items?
- Yes.
6. Are inspectors adequately trained in customs inspection techniques and procedures?
- Yes.
7. Does the consignee have to be present during a search of goods?
- No.
8. Are customs and law enforcement officials held liable for damage occurring during a search?
- No.
9. Does a frontline inspector have the authority to conduct a search on his own, or does he/she need approval from a supervisor. If yes, at what level?
- Authority exists with frontline inspector.
10. Is corruption a problem within customs/law enforcement organizations?
- Over the past few years Slovakia has taken significant action to reduce corruption. Although there are still isolated cases, it is not nearly as widespread as it once was.
11. Are there sufficient personnel devoted to export enforcement, including at the borders? Are they properly trained?
- Numbers are sufficient but there is need for additional training.
12. Is there sufficient, functioning equipment and other resources devoted to interdicting unauthorized transfers of controlled items?
- No. EXBS Advisors preparing equipment requests.
13. Are there regulations published on customs/border control procedures and requirements?
- Yes.
14. Are there standard operating procedures at all border locations?
- Yes.
15. Are there actual checks being made at national borders, transit points and ports?
- Yes. All exports of strategic and dual-use goods and technology are inspected by Customs at the border station prior to export.
16. Are there effective transshipment controls at national borders, transit points and ports?
- Yes.

17. What investigative activities are being carried out?

- a. Undercover operations?
Yes.
- b. Stings?
Yes.
- c. Paid informants?
Unknown.
- d. Electronic surveillance?
Yes.

18. Are the penalties being enforced with actual prosecution?

None in the recent past.

19. Have they conducted any criminal investigations? What were their outcomes?

Yes. Outcomes are unknown.

20. Are there sufficient civil and administrative penalties for export control violations?

Yes.

21. Are criminal penalties used for export control violations?

Yes.

22. Are there customs assistance agreements with U.S. and other multilateral regime partners?

Yes.

23. Are there extradition treaties with these partners?

Unknown.

24. Does customs have sufficient equipment to detect

WMD and related items? Sufficient training?
No. Portal monitors along Ukraine border are "gamma" only. More Radiation Detection Pagers and other equipment, such as RIIDs and x-ray equipment, is necessary.

25. Are there procedures in place to ensure proper handling of detected WMD materials?

Yes.

a. What are they (e.g. seizure, proper storage)?
Identification, Analysis, Seizure, Evidence Storage. The Ministry of Health has a significant role. Current policy would return highly radioactive materials across the border.

IV. Procedures for the coordination and exchange of information

IV.A. Interagency coordination and exchange of information concerning export (transfer) control procedures, involved parties, and export (transfer) control violations

1. Provisions for gathering information on controlled trade

a. Is the information being gathered effectively?
Yes.

b. Is the information being analyzed with the intent to affect policy?

Yes. However, they are hindered because of the existing privacy laws.

c. Are there adequate personnel and other resources devoted to gathering information on controlled trade?
Yes.

2. Are there mechanisms for timely and discreet information exchange among concerned agencies and governments?

No. Computer database privacy laws seriously restrict the ability to accomplish this.

3. Do the interdiction officials exchange information with the investigatory and prosecutory authorities and vice versa?

Yes. Customs investigators turn information over to Police who prepare case for the prosecutor.

4. Is there an adequate role for intelligence agencies?

Yes.

5. Is the intelligence community providing the necessary information?

Only during licensing review process at working group level.

6. Do border control officials have good working relations with their neighboring counterparts, at border crossings?

Relations are strained at the Ukraine border. Although they meet regularly, there is still a lack of trust.

IV.B. Industry, public, and Government Cooperation (both licensing and law enforcement)

1. Provisions for sharing information with industry and the public on export control policy.

a. Is the information being shared?

Yes.

b. Do the authorities inform industries of export licensing/authorization requirements?

Yes.

12. Does an industry out-reach program exist?

Yes. Through periodic meetings organized through auspices of Chamber of Commerce.

a. Are there meetings, conferences, and symposiums being held?

Yes.

b. What means of dissemination exist for the distribution of educational materials to industry? Outreach programs.

13. Does industry have an opportunity to appeal license/authorization decisions?

Basically, yes, the right of a license review by the court is allowed.

14. Do authorities induce companies to adopt internal compliance programs?

No.

15. Is the government committed to protection of proprietary information of businesses that comply with the law?

Yes.

16. Are there authorities and procedures for industry to make voluntary disclosures?

No.

IV.C. Bilateral Cooperation

1. Does subject country exchange policy, license decision, law enforcement and intelligence information with the U.S. on a bilateral basis as needed and periodically?

Yes.

2. Is subject country willing to establish arrangements to do so?

Yes.

3. Will the law enforcement authorities work cases with foreign law enforcement authorities?

Yes.

V. Program Administration and system Automation

V.A. Infrastructure

1. Are there sufficient infrastructure, administrative capabilities, facilities, equipment (automation, communications, and data-processing systems)?

Yes.

a. Is the equipment, including software, up-to-date?

Yes. Over the passed few years Customs has implemented an automated commercial data system (ASYCUDA), an automated transit system (NCTS) and TARIC. MOE uses the Tracker System to assist with export licensing decisions.

2. Are there agencies/personnel responsible for this component of the export control system?

Yes.

3. Are they adequately trained; including trained to use automation equipment?

Yes.

4. Are there enough licensing officers to process license applications in a timely fashion?

Yes.

V.B. Administrative Structure

1. Are there procedures to govern the filing, receiving, forwarding and tracking of cases and support information?

Yes.

2. Do mechanisms exist for interagency and international exchange of classified information?

Yes. However, varied computer systems severely limits exchange of information between agencies.

3. Is training available for information handlers?

Yes.

4. Is there a projected timetable and, cost for development and implementation of the administrative structure, if not in place already?

Already in place.

Clearance:

NP/ECC:

DOC/BIS/NEC:

DHS/CBP:

EXBS Regional Program Advisor: Larry Adkins

DOE/SLD:

End Export Control System Standards

Questions regarding this report can be directed to Larry Adkins, EXBS Senior Advisor, at AmEmbassy Bratislava at telephone no.: 421-2-5922-3375, fax: 421-2-5922-3497 or through email at adkinslh@state.gov.

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